

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P. & S. Docket No. D-04-0011
	)	
S.A. Hallal Meat Inc.,	)	
d/b/a S.A. Halal Meat Inc.	)	
and Mohammad Arshad	)	
	)	Decision Without Hearing
Respondents	)	by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.)(the “Act”), instituted by a complaint and notice of hearing (the “complaint”) filed on July 31, 2004 by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents violated the Act.

The complaint alleged that Respondents failed to pay, when due, for livestock in the amount of \$67,602.81. The complaint further alleged that Respondents issued checks in payment for livestock purchases which checks were returned unpaid by the bank upon which they were drawn because Respondents did not have and maintain sufficient funds on deposit and available in the accounts upon which such checks were drawn to pay such checks when presented. Finally, the complaint alleged that Respondents failed to keep accounts, records, and memoranda which fully and correctly disclosed all transactions in its business as a slaughtering packer as required by Section 401 of the Act. Specifically, Respondents failed to keep and maintain complete records, including but not limited to: purchase and sales invoices, kill sheets, sellers invoices, accounts receivable ledger, and livestock purchases ledger.

A copy of the complaint was mailed by the Hearing Clerk to Respondents by certified mail on August 2, 2004, and was returned by the U.S. Postal Service to the Hearing Clerk's office on August 26, 2004. Pursuant to the Hearing Clerk's request, counsel for Complainant, through its client, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, confirmed Respondents' most recent address as 6902 Ridge Blvd., D-10 Brooklyn, NY 11209.<sup>1</sup>

The Hearing Clerk remailed the complaint to that address via regular mail on September 2, 2004, and therefore served the complaint upon Respondents pursuant to Section 1.147 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By The Secretary (7 C.F.R. § 1.147, hereinafter referred to as the "Rules of Practice), as of that date.

Subsequent to the service of the complaint by the Hearing Clerk, Complainant sent a letter and attached "proposed consent decision" to Respondents by regular mail to 6902 Ridge Blvd., D-10 Brooklyn, NY 11209 . The letter and attached "proposed consent" advised Respondents of the sanction requested by complainant in this case.

Specifically, the "proposed consent" stated that Respondent Hallal, its officers, directors, agents and employees, successors and assigns, directly or through any corporate or other device, in

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<sup>1</sup> Specifically, Complainant, through its client, referred to the most recent annual report filed by Respondent as required by 9 C.F.R. § 201.97. The address Respondent provided on its last annual report filed with the Packers and Stockyards Administration was 6902 Ridge Blvd., D-10 Brooklyn, NY 11209.

connection with its operations as a packer subject to the Act, and Respondent Arshad, directly or indirectly through any corporate or other device, shall cease and desist from:

1. Issuing checks in payment for livestock purchases while there are insufficient funds on deposit and available in the accounts upon which such checks are drawn to pay such checks when presented; and

2. Failing to pay, and failing to pay when due, for livestock purchased.

The “proposed consent” further stated that Respondents shall keep accounts, records and memoranda that fully and correctly disclose all transactions involved in their business. Specifically, the “proposed consent” stated that Respondents shall keep purchase and sale invoices, kill sheets, sellers invoices, accounts receivable ledger, bank statements, cancelled checks, deposit tickets, and a purchase journal recording the date of purchase, seller, number of head, description of livestock, purchase price, date received, commission charge and identity of the person or firm on whose account the livestock were purchased.

Finally, the “proposed consent” stated that in accordance with section 203 (b) of the Act (7 U.S.C. § 193 (b)), Respondents Hallal and Arshad are assessed, jointly and severally, a civil penalty of \$13,000.00.

Respondents did not file an answer to the complaint within the 20 day time period prescribed by Section 1.136 of the Rules of Practice. Complainant moved for the issuance of a Decision Without Hearing by the Administrative Law Judge, pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

As Respondents failed to answer within the 20 day time period prescribed by the

Rules of Practice, and upon the motion of the Complainant for the issuance of a Default Order, the following Decision and Order is issued without further investigation or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

### Findings of Fact

1. S.A. Hallal Meat Inc., d/b/a S.A. Halal Meat Inc., hereinafter referred to as Respondent Hallal, is a corporation organized and existing under the laws of New York, doing business in the state of New York. Its business mailing address is 6902 Ridge Blvd., D-10 Brooklyn, NY 11209.

2. Respondent Hallal is, and at all times material herein, was:

(a) Engaged in the business of buying livestock in commerce for the purposes of slaughter; and

(b) A packer within the meaning of and subject to the provisions of the Act.

3. Mohammad Arshad, hereinafter referred to as Respondent Arshad, is an individual whose mailing address is 6902 Ridge Blvd., D-10 Brooklyn, NY 11209.

4. Respondent Arshad is and at all times material herein was:

(a) President of Respondent Hallal.

(b) Owner of one hundred percent of the stock of Respondent Hallal.

(c) Responsible for the direction, management and control of Respondent Hallal.

(d) A packer within the meaning of and subject to the provisions of the Act.

5. Respondent Hallal, under the direction, management and control of Respondent Arshad, on or about the dates and in the transactions set forth below, issued checks in payment

for livestock purchases which checks were returned unpaid by the bank upon which they were drawn because Respondents did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented.

<b>Invoice Date</b>	<b>Date of Check</b>	<b>Date Check Returned</b>	<b>Check Number</b>	<b>Payee</b>	<b>Amount</b>
12/13/99	12/19/99	12/23/99	2635	Louis Lyons & Sons	\$23,769.50
12/20/99	12/26/99	12/29/99	2644	Louis Lyons & Sons	\$18,075.64
12/27/99	01/02/00	01/05/00	2645	Louis Lyons & Sons	\$19,252.10
01/03/00	01/09/00	01/12/00	2653	Louis Lyons & Sons	\$27,899.32
01/10/00	01/17/00	01/20/00	2655	Louis Lyons & Sons	\$19,264.20
01/17/00	01/23/00	01/28/00	2667	Louis Lyons & Sons	\$10,196.21
01/31/00	02/06/00	02/09/00	2680	Louis Lyons & Sons	\$13,555.00
02/07/00	02/13/00	02/16/00	2694	Louis Lyons & Sons	\$18,416.40
02/14/00	02/21/00	02/24/00	2695	Louis Lyons & Sons	\$10,781.70
02/21/00	02/28/00	03/01/00	2700	Louis Lyons & Sons	\$25,458.12
02/28/00	03/05/00	03/08/00	2706	Louis Lyons & Sons	\$28,847.58
03/06/00	03/11/00	03/15/00	2707	Louis Lyons & Sons	\$17,457.79
03/13/00	03/27/00	03/30/00	2715	Louis Lyons & Sons	\$21,387.89

6. Respondent Hallal, under the direction, management and control of Respondent Arshad, on or about the dates and in the transactions set forth below, purchased livestock and failed to pay, when due, for such livestock purchases.

<b>Purchase Date</b>	<b>Number of Head</b>	<b>Payee</b>	<b>Amount</b>
06/26/00	50	Louis Lyons & Sons	\$9,810.42
07/03/00	92	Louis Lyons & Sons	\$5,740.50

07/10/00	180	Louis Lyons & Sons	\$24,470.26
07/17/00	214	Louis Lyons & Sons	\$16,639.10
07/24/00	150	Louis Lyons & Sons	\$10,942.53

As of the date of the issuance of the complaint, there remained unpaid by Respondents a total of \$67,602.81 for the livestock purchases referred to in the transactions listed above.

7. Respondent Hallal, under the direction, management and control of Respondent Arshad failed to keep such accounts, records, and memoranda which fully and correctly disclosed all transactions in its business as a slaughtering packer as required by Section 401 of the Act. Specifically, Respondents failed to keep and maintain complete records, including but not limited to: purchase and sales invoices, kill sheets, sellers invoices, accounts receivable ledger, and livestock purchases ledger.

#### Conclusions

By reason of the facts in Findings of Fact 1 through 4 above, Respondent Arshad is the alter ego of Respondent Hallal.

By reason of the facts in Findings of Fact 5 through 6 above, Respondents have willfully violated sections 202(a) and 409 of the Act (7 U.S.C. § 192 (a) and § 228b).

By reason of the facts in Finding of Fact 7 above, Respondents have violated the requirements of Section 401 of the Act and engaged in an unfair practice in violation of section 202(a) of the Act (7 U.S.C. § 192 (a) and § 221).

#### Order

Respondent Hallal, its officers, directors, agents and employees, successors and assigns, directly or through any corporate or other device, in connection with its operations as a packer subject to the Act, and Respondent Arshad, directly or indirectly through any corporate or other

device, shall cease and desist from:

1. Issuing checks in payment for livestock purchases while there are insufficient funds on deposit and available in the accounts upon which such checks are drawn to pay such checks when presented; and

2. Failing to pay, and failing to pay when due, for livestock purchased.

Further, Respondents shall keep accounts, records and memoranda that fully and correctly disclose all transactions involved in their business. Specifically, Respondents shall keep purchase and sale invoices, kill sheets, sellers invoices, accounts receivable ledger, bank statements, cancelled checks, deposit tickets and other records associated with individual livestock purchases. Respondents shall also keep a purchase journal recording the date of purchase, seller, number of head, description of livestock, purchase price, date received, commission charge and identity of the person or firm on whose account the livestock were purchased.

In accordance with section 203 (b) of the Act ( (7 U.S.C. § 193 (b)), Respondents Hallal and Arshad are assessed, jointly and severally, a civil penalty of \$13,000.00.

This decision shall become final and effective without further proceedings 35 days after the date of service upon Respondents, unless it is appealed to the Judicial Officer by a party to the proceeding within 30 days pursuant to Section 1.145 of the Rules of Practice (7 C.F.R § 1.145).

Copies of this decision shall be served upon the parties.

Done at Washington, DC

this\_\_\_\_\_day of \_\_\_\_\_

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Administrative Law Judge